

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA

DARRELL ZANE OWINGS, )  
                          )  
                         Petitioner, )  
                          )  
                         vs.        )       NO. CIV-07-64-T  
                          )  
JUSTIN JONES - Director, *et al.*, )  
                          )  
                         Respondents. )

ORDER

Before the Court are the Report and Recommendation of United States Magistrate Judge Robert E. Bachrach [Doc. No. 10] entered March 28, 2007 and Petitioner's "Response to Report and Recommendation" [Doc. No. 11] filed April 9, 2007. The Court treats Petitioner's "Response" as an Objection to the Report and Recommendation and, pursuant to 28 U.S.C. § 636(b)(1)(B), reviews the Report and Recommendation *de novo* in light of the Petitioner's Objection.

In his Objection, Petitioner simply advances his view that "transcripts ... [are] critical in the filing of any post-conviction or a case of any kind" and that therefore 28 U.S.C. § 2244(d)(1)(D) should apply. However, case law does not support Petitioner's argument. See Gauthier v. Higgins, 175 Fed. Appx. 174, 176 (10<sup>th</sup> Cir. Mar. 15, 2006) (unpublished opinion) (cited in the Report and Recommendation at p. 4). Moreover Petitioner has not alleged, much less shown, that he could not have discovered the factual predicates of his claim or claims without the benefit of the transcripts. Petitioner's Objection is without merit.

In accordance with the foregoing, the Report and Recommendation of the Magistrate Judge is ADOPTED in its entirety and the petition for a writ of habeas corpus herein pursuant to 28 U.S.C.

§ 2254 is summarily DISMISSED as untimely.

IT IS SO ORDERED this 19<sup>th</sup> day of April, 2007.



RALPH G. THOMPSON  
UNITED STATES DISTRICT JUDGE